

AMENDED IN ASSEMBLY MAY 10, 2011
AMENDED IN ASSEMBLY MARCH 25, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 880

Introduced by Assembly Member V. Manuel Pérez

February 17, 2011

An act to amend Sections 21159, ~~21159.1~~, and ~~21159.4~~ and *21159.1* of the Public Resources Code, relating to the environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 880, as amended, V. Manuel Pérez. Environmental quality: CEQA: expedited environmental review.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA authorizes the use of a focused environmental impact report for a project that consists solely of the installation of pollution control equipment or for a project that consists solely of the installation of that equipment or other components in compliance with the California Global Warming Solutions Act of 2006.

Existing law requires specified state and local government agencies to perform a specified environmental analysis at the time of the adoption of a rule or regulation requiring the installation of pollution control equipment, or a performance standard or treatment requirement, including a rule or regulation that requires the installation of pollution

control equipment or a performance standard or treatment requirement pursuant to the California Global Warming Solutions Act of 2006.

This bill would instead require that those agencies perform ~~that an~~ environmental analysis *of the reasonably foreseeable methods of compliance* at the time of the adoption of a rule or regulation requiring *the installation of pollution control equipment, or compliance with an* energy efficiency standard ~~or compliance mechanism including that rule or regulation~~ a performance standard or treatment requirement, *including a rule or regulation that requires the installation of pollution control equipment or other direct emission reduction, or compliance with a performance standard or treatment requirement* adopted pursuant to the California Global Warming Solutions Act of 2006.

This bill would also revise the circumstances under which a focused environmental impact report may be used for a project.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21159 of the Public Resources Code is
2 amended to read:
3 21159. (a) ~~An agency listed in Section 21159.4 shall perform,~~
4 ~~at the time of the adoption of a rule or regulation requiring the~~
5 ~~installation of pollution control equipment, or compliance with a~~
6 ~~performance standard, treatment requirement, or energy efficiency~~
7 ~~standard, including a rule or regulation that requires the installation~~
8 ~~of pollution control equipment or compliance with a performance~~
9 ~~standard, treatment requirement, energy efficiency standard, or~~
10 ~~compliance mechanism adopted pursuant to the California Global~~
11 ~~Warming Solutions Act of 2006 (Division 25.5 (commencing with~~
12 ~~Section 38500) of the Health and Safety Code), an environmental~~
13 ~~analysis of the reasonably foreseeable methods of compliance~~
14 21159. (a) *An agency listed in Section 21159.4 shall perform*
15 *an environmental analysis of the reasonably foreseeable methods*
16 *of compliance at the time of the adoption of a rule or regulation*
17 *requiring the installation of pollution control equipment, or*
18 *compliance with a performance standard, or treatment*
19 *requirement, including a rule or regulation that requires the*
20 *installation of pollution control equipment or other direct emission*
21 *reduction, or compliance with a performance standard or treatment*

1 *requirement adopted pursuant to the California Global Warming*
2 *Solutions Act of 2006 (Division 25.5 (commencing with Section*
3 *38500) of the Health and Safety Code).* In the preparation of this
4 analysis, the agency may utilize numerical ranges or averages
5 where specific data is not available; however, the agency shall not
6 be required to engage in speculation or conjecture. The
7 environmental analysis shall, at minimum, include all of the
8 following:

9 (1) An analysis of the reasonably foreseeable environmental
10 impacts of the methods of compliance.

11 (2) An analysis of reasonably foreseeable feasible mitigation
12 measures.

13 (3) An analysis of reasonably foreseeable alternative means of
14 compliance with the rule or regulation.

15 ~~(4) For a rule or regulation adopted pursuant to the California~~
16 ~~Global Warming Solutions Act of 2006 (Division 25.5~~
17 ~~(commencing with Section 38500) of the Health and Safety Code)~~
18 ~~that requires the installation of pollution control equipment,~~
19 ~~improvements in energy efficiency, or compliance with~~
20 ~~performance standards, the analysis shall also include reasonably~~
21 ~~foreseeable greenhouse gas emission impacts of compliance with~~
22 ~~the rule or regulation.~~

23 *(4) For a rule or regulation adopted pursuant to the California*
24 *Global Warming Solutions Act of 2006 (Division 25.5 (commencing*
25 *with Section 38500) of the Health and Safety Code) that requires*
26 *the installation of pollution control equipment or other direct*
27 *emission reduction, the analysis shall also include reasonably*
28 *foreseeable greenhouse gas emission impacts of compliance with*
29 *the rule or regulation.*

30 (b) The preparation of an environmental impact report at the
31 time of adopting a rule or regulation pursuant to this division shall
32 be deemed to satisfy the requirements of this section.

33 (c) The environmental analysis shall take into account a
34 reasonable range of environmental, economic, and technical factors,
35 population and geographic areas, and specific sites.

36 (d) This section does not require the agency to conduct a
37 project-level analysis.

38 (e) For purposes of this article, the term “performance standard”
39 includes process or raw material changes or product reformulation.

(f) This section is not intended, and may not be used, to delay the adoption of any rule or regulation for which an analysis is required to be performed pursuant to this section.

SEC. 2. Section 21159.1 of the Public Resources Code is amended to read:

21159.1. (a) A focused environmental impact report may be utilized if a project meets all of the following requirements:

(1) The project consists solely of any of the following:

(A) Installation of pollution control equipment required by a rule or regulation ~~of adopted by~~ an agency listed in subdivision (a) of Section 21159.4 and the other components necessary to complete the installation of that equipment.

(B) Installation of pollution control equipment and other components necessary to complete the installation of that equipment that reduces greenhouse gases, as required by a rule or regulation ~~of adopted by~~ an agency listed in Section 21159.4 pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

~~(C) Installation of pollution control equipment or new or modified equipment, or implementation of other facility process changes, or both, necessary or used to achieve compliance with a performance standard, treatment requirement, energy efficiency standard, or compliance mechanism included in a rule or regulation adopted by an agency listed in subdivision (a) of Section 21159.4 pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).~~

(C) Installation of direct emission reduction required by a rule or regulation adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(2) The agency certifies an environmental impact report on the rule or regulation or reviews it pursuant to a certified regulatory program, and, in either case, the review includes an assessment of growth inducing impacts and cumulative impacts of, and alternatives to, the project.

1 (3) The environmental review required by paragraph (2) is
2 completed within five years of certification of the focused
3 environmental impact report.

4 (4) An environmental impact report is not required pursuant to
5 Section 21166.

6 (b) The discussion of significant effects on the environment in
7 the focused environmental impact report shall be limited to
8 project-specific potentially significant effects on the environment
9 of the project that were not discussed in the environmental analysis
10 of the rule or regulation required pursuant to subdivision (a) of
11 Section 21159. A discussion of growth-inducing impacts or
12 cumulative impacts shall not be required in the focused
13 environmental impact report, and the discussion of alternatives
14 shall be limited to a discussion of alternative means of compliance,
15 if any, with the rule or regulation.

16 ~~SEC. 3. Section 21159.4 of the Public Resources Code is~~
17 ~~amended to read:~~

18 ~~21159.4. (a) This article shall apply to all of the following~~
19 ~~agencies:~~

20 ~~(1) The State Air Resources Board.~~

21 ~~(2) A district as defined in Section 39025 of the Health and~~
22 ~~Safety Code.~~

23 ~~(3) The State Water Resources Control Board.~~

24 ~~(4) A California regional water quality control board.~~

25 ~~(5) The Department of Toxic Substances Control.~~

26 ~~(6) The Department of Resources Recycling and Recovery.~~

27 ~~(b) This article shall apply to the State Energy Resources~~
28 ~~Conservation and Development Commission and the California~~
29 ~~Public Utilities Commission for rules and regulations requiring~~
30 ~~the installation of pollution control equipment or new or modified~~
31 ~~equipment, or the implementation of other facility or process~~
32 ~~changes, or both, including energy efficiency projects, adopted~~
33 ~~pursuant to the California Global Warming Solutions Act of 2006~~
34 ~~(Division 25.5 (commencing with Section 38500) of the Health~~
35 ~~and Safety Code).~~